

TENNESSEE REAL ESTATE COMMISSION
MINUTES
April 4, 2007

The Tennessee Real Estate Commission convened on April 4, 2007, in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William (Bear) Stephenson, Commissioner Gary Cunningham, Commissioner Adren Greene, Commissioner Grover Collins, Commissioner Isaac Northern, Commissioner Carol Tate, and Commissioner Wendell Alexander. Interim Executive Director Donna Hancock announced during roll call that newly appointed Commissioner David Flitcroft was in orientation with Ryan Bane, staff attorney, and would be joining the meeting shortly. Others present: staff members Dee Mitchell, ASA II and Kelly McDermott, Administrative Secretary.

The first order of business was the approval of the Agenda (**Exhibit 1**). Chairman Haynes called for the adoption of the agenda and asked for any additions or changes to the agenda. Interim Executive Director Donna Hancock requested that the Audit Report of Education and Recovery Fund be added to the agenda. Chairman Haynes confirmed the addition of the report to the agenda. Commissioner Alexander asked if the minutes to be adopted were the "reworked" minutes. Staff member Dee Mitchell confirmed that the minutes contained Mr. Alexander's changes or additions. **Commissioner Alexander made a motion to approve the minutes from March 2007 as presented (Exhibit 2); seconded by Commissioner Tate; Motion Carried. Adopting the agenda was abandoned.**

INFORMAL CONFERENCES:

Michael Dean Miller, licensee – Mr. Miller appeared before the Commission in order to explain why he was in the process of having a criminal conviction expunged from his record and to request no disciplinary action be taken against him for not disclosing a prior conviction at the time of application for licensure as an affiliate broker in 2005. Mr. Miller disclosed a theft of property over a \$1000.00 which was pled down to a misdemeanor. **Commissioner Stephenson made a motion to approve licensure for Mr. Miller; seconded by Commissioner Collins.** There was a miscommunication that Mr. Miller was an applicant, not a licensee. Interim Executive Director Donna Hancock explained that Mr. Miller is a licensee, not an applicant and therefore the issue is whether Mr. Miller should be disciplined for non-disclosure of the conviction at the time of application. In light of this information, **Commissioner Stephenson withdrew his previous motion. Commissioner Collins withdrew his previous second motion. Commissioner Stephenson restated his motion. Commissioner Stephenson made a motion to take no disciplinary action against Mr. Miller for non-disclosure of his conviction; seconded by Commissioner Collins; Motion Carried; Commissioner Cunningham abstained.**

Commissioner Flitcroft and staff attorney Ryan Bane entered the meeting during Mr. Miller's informal hearing.

Antonio Oliver Gregory, applicant – Mr. Gregory appeared before the Commission in order to request licensure approval. Mr. Gregory disclosed a conviction of aggravated assault in 1982, fraudulent breach of trust, embezzlement and larceny in 1981. Mr. Gregory stated that he pled down to petty larceny. Mr. Gregory also stated he pled guilty to aggravated assault. Chairman Haynes suggested that Mr. Gregory review the final order from the court and return with all the facts. **Commissioner Northern made a motion for Mr. Gregory to get all the facts and return later after review of the final order; seconded by Commissioner Greene; Motion Carried.**

Robert Glen Dean, applicant– Mr. Dean appeared before the Commission in order to request licensure approval. Mr. Dean disclosed two convictions for possession of a controlled substance and possession of drug paraphernalia. **Commissioner Cunningham made a motion to approve applicant; seconded by Commissioner Greene; Motion Carried.**

Charles Hunt, Jr., applicant – Mr. Hunt requested the Commission consider reinstating his license. Mr. Hunt's license was revoked in 1991 after an audit was performed and it was noted that he loaned money to a friend from an escrow account. **Commissioner Collins made a motion to approve Mr. Hunt to retest for an Affiliate Broker license; seconded by Commissioner Greene; upon discussion motion was withdrawn by Commissioner Collins and Commissioner Greene.** Commissioner Cunningham was concerned with whether restitution was made to the victim. **Commissioner Alexander made a motion to deny Principal Broker status; no second; Motion Failed. Commissioner Alexander made a motion to defer any decision until Mr. Hunt had an opportunity to review the final order from his prior conviction; seconded by Commissioner Northern; Motion Carried.** Mr. Charles Hunt appeared before the Commission later in the meeting and after his review of the final order. **Commissioner Alexander made a motion Mr. Hunt be allowed to retest for the Affiliate Broker exam but only if he completes all the pre-licensing classes as required for any new applicant for an affiliate broker license; seconded by Commissioner Collins; a roll call was completed by Donna Hancock and Commissioner Greene, Commissioner Flitcroft, Commissioner Collins, Commissioner Northern, Vice-Chairman Stephenson, Commissioner Alexander, Commission Tate, and Chairman Haynes all voted yes on the motion; Motion Carried.**

Victoria Marie Debit, applicant – Ms. Debit appeared before the Commission in order to request licensure approval. Ms. Debit disclosed a conviction of misdemeanor theft for shoplifting in 2005. It was found that the record has been expunged. **Commissioner Collins made a motion to approve; seconded by Commissioner Tate; Motion carried.**

Chairman Haynes introduced Commissioner Flitcroft as a new appointee to the Commission. Each commission member and staff individually introduced themselves to Commissioner Flitcroft. Mr. Flitcroft, in turn, introduced himself to the Commission.

A discussion was held pertaining to the reinstatement policy for expired licensees. Chairman Haynes stated that E&O Insurance must be in place and missing Continuing Education classes must be completed prior to reinstatement of the license plus a civil penalty will be assessed to the licensee. **Commissioner Northern made a motion that the Commission defer the reinstatements until afternoon thereby giving staff an opportunity to separate expired licensees by infraction; seconded by Commissioner Alexander; Motion Carried**

POLICY REVIEW (Exhibit 3)

- Memorandum; 05/03/88 – **Commissioner Greene made a motion to disregard this memo; seconded by Commissioner Stephenson; Motion Carried.**
- Policy 89-CPS-001; 03/30/89 - **Commissioner Alexander made a motion to remove from record; seconded by Commissioner Greene; Motion Carried.**
- Policy 89-CPS-002; 03/30/89 – **Commissioner Alexander made a motion to remove by; seconded by Commissioner Collins; Motion Carried.**
- Policy 89-CPS-003; 03/30/89 – **Commissioner Alexander made a motion to remove; seconded by Commissioner Greene; Motion Carried.**
- Policy 89-CPS-004; 03/30/89 – **Commissioner Alexander made a motion to retain; seconded by Commissioner Collins; Motion Carried.**
- Policy 89-CPS-005; 10/13/89 – **Commissioner Alexander made a motion to let the policy stand; seconded by Commissioner Northern; Motion Carried.**
- Policy 89-CPS-006; 12/06/89 – **Commissioner Northern made a motion to retain; seconded by Commissioner Greene; Motion Carried.**
- Policy 89-CPS-006; 12/06/89, Revised 04/07/1993 – **Commissioner Northern made a motion to discard and use the 1989 version (89-CPS-006; 12/06/89); seconded by Commissioner Collins. Staff attorney Ryan Bane advised that a change in the application precipitated the policy revision on 04/07/1993. Commissioner Northern made a motion to delete the 1989 Policy (89-CPS-006; 12/06/89) and use this revised policy (89-CPS-006; 12/06/89, Revised 04/07/1993) in its place; seconded by Commissioner Collins; Motion Carried.**
- Policy 90-CPS-001; 01/05/1990 – **Commissioner Alexander made a motion to remove; seconded by Commissioner Collins; Motion Carried.**
- Policy 90-CPS-002; 09/06/90 – **Commissioner Collins made a motion to discard; seconded by Commissioner Tate; Motion Carried.**
- Policy 91-CPS-001; 04/02/91 – **Commissioner Northern made a motion to discard; seconded by Commissioner Greene; Motion Carried.**
- Policy 91-CPS-002; 06/06/91 – **Commissioner Stephenson made a motion to discard; seconded by Commissioner Northern; Motion Carried.**
- Policy 92-CPS-001; 06/03/92 – **Commissioner Stephenson made a motion to delete; seconded by Commissioner Alexander; Motion Carried.**
- Policy 93-CPS-001; 04/07/93 – **Commissioner Alexander made a motion to delete; seconded by Commissioner Collins; Motion Carried.**
- Policy 93-CPS-001; 04/07/93 Revised 10/04/95 – **Commissioner Alexander made a motion to delete; seconded by Commissioner Northern; Motion Carried.**
- Policy 93-CPS-002; 11/03/93 - **Commissioner Stephenson made a motion to delete; seconded by Commissioner Northern; Motion Carried.**

- Policy 94-CPS-001; 05/04/94 – **Commissioner Alexander made a motion to delete; seconded by Commissioner Collins; Motion Carried**
- Policy 94-CPS-002; 11/10/94 – **Commissioner Collins made a motion to delete; seconded by Commissioner Greene; Motion Carried.**
- Policy 94-CPS-002; 11/10/94 (duplicate in binder) – **Commissioner Collins made a motion to delete; seconded by Commissioner Northern; Motion Carried.**
- Policy 94-CPS-003; 11/10/94 – **Commissioner Alexander made a motion to retain for now; seconded by Commissioner Collins; Motion Carried.**
- Policy 95-CPS-001; 01/04/95 – **Commissioner Collins made a motion to delete; seconded by Commissioner Northern; Motion Carried.**
- Policy 95-CPS-002; 02/28/95 – **Commissioner Alexander made a motion to retain; seconded by Commissioner Collins; Motion Carried.**
- Policy 95-CPS-003; 04/05/95 – **Commissioner Cunningham made a motion to retain; seconded by Commissioner Alexander; Motion Carried.**
- Policy 95-CPS-004; 06/07/95 – **Commissioner Alexander made a motion to delete; seconded by Commissioner Collins; Motion Carried.**
- Memorandum; 08/01/88 – **Commissioner Alexander made a motion to discard; seconded by Commissioner Collins; Motion Carried.**
- Policy 95-CPS-005; 10/04/95 - **Commissioner Alexander made a motion to delete; seconded by Commissioner Northern; Motion Carried.**
- Policy 95-CPS-006; 11/02/95 – **Commissioner Alexander made a motion to retain for now; seconded by Commissioner Stephenson; Motion failed to pass. Commissioner Northern made a motion to discard; seconded by Commissioner Tate; Motion Carried.**
- Policy 96-CPS-001; 02/08/96 - **Commissioner Collins made a motion to discard; seconded by Commissioner Greene; Motion Carried.**
- Policy 96-CPS-002; 05/02/96 – **Commissioner Northern made a motion to retain until legislature decision; seconded by Commissioner Alexander; Motion Carried.**
- Policy 96-CPS-003; 07/10/96 – **Commissioner Alexander made a motion to delete; seconded by Commissioner Cunningham; Motion Carried.**
- Policy 96-CPS-004; 10/03/96 – **Commissioner Stephenson made a motion to retain; seconded by Commissioner Northern; Motion Carried.**
- Policy 96-CPS-005; 12/04/96 – **Commissioner Northern made a motion to retain; seconded by Commissioner Collins; Motion Carried.**
- Policy 99-CPS-001; 03/11/99 – **Commissioner Northern made a motion to discard; seconded by Commissioner Greene; Motion Carried.**
- Policy 99-CPS-002; 07/08/99 – **Commissioner Northern made a motion to discard; seconded by Commissioner Stephenson; Motion Carried.**
- Policy 2000-CPS-001; 01/05/00 – **Commissioner Alexander made a motion to retain for now; seconded by Commissioner Collins; Motion Carried.**
- Policy 2000-CPS-002; 01/05/00 - **Commissioner Collins made a motion to retain; seconded by Commissioner Northern; Motion Carried.**
- Policy 2000-CPS-003; 03/01/00 – **Commissioner Northern made a motion to discard; seconded by Commissioner Collins; Motion Carried.**
- Policy 2000-CPS-004; 04/05/00 – **Commissioner Alexander made a motion to retain; seconded by Commissioner Northern; Motion Carried.**

- Policy 2000-CPS-004; 04/05/00 Revised 06/07/01 - **Commissioner Alexander made a motion to retain; seconded by Commissioner Collins; Motion Carried.**
- Policy 2000-CPS-005; 04/05/00 – **Commissioner Alexander made a motion to retain; seconded by Commissioner Stephenson; Motion Carried.**
- Policy 2000-CPS-006; 05/04/00 – **Commissioner Collins made a motion to delete; seconded by Commissioner Cunningham; Motion Carried.**
- Policy 2000-CPS-007; 07/07/00 – **Commissioner Alexander made a motion to retain; seconded by Commissioner Cunningham; Motion Carried.**
- Policy 2000-CPS-008; 07/12/00 – **Commissioner Alexander made a motion to delete; seconded by Commissioner Northern; Motion Carried.**
- Policy 2000-CPS-009; 08/02/00 – **Commissioner Northern made a motion to discard; seconded by Commissioner Stephenson; Motion Carried.**
- Policy 2000-CPS-010; 11/01/00 – **Commissioner Stephenson made a motion to delete; seconded by Commissioner Cunningham; Motion Carried.**
- Policy 2001-CPS-002; 02/07/01 – **Commissioner Alexander made a motion to retain; seconded by Commissioner Cunningham; Motion Carried.**
- Policy 2001-CPS-001; 03/07/01 – **Commissioner Alexander made a motion to retain; seconded by Commissioner Cunningham; Motion Carried.**
- Policy 2001-CPS-003; 03/07/01 – **Commissioner Alexander made a motion to delete; seconded by Commissioner Collins; Motion Carried.**
- Policy 2001-CPS-004; 05/02/01 – **Commissioner Alexander made a motion to retain; seconded by Commissioner Greene; Motion Carried.**
- Policy 2001-CPS-005; 09/05/01 – **Commissioner Greene made a motion to retain; seconded by Commissioner Northern; Motion Carried.**
- Policy 2002-CPS-001; 11/13/02 – **Commissioner Stephenson made a motion to delete; seconded by Commissioner Greene; Motion Carried.**
- Policy 2004-CPS-001; 07/23/04 – **Commissioner Greene made a motion to discard; seconded by Commissioner Collins; Motion Carried.**
- Policy 2005-CPS-001; 08/10/05 – **Commissioner Alexander made a motion to retain; seconded by Commissioner Stephenson; Motion Carried.**

The next order of business was a discussion of supervision of Affiliate Brokers by Principal Brokers. Guest Speakers were **Mr. Jay Busey and Russ Farrar of TAR and Fontaine Taylor & Christine Wilson who are licensees on behalf of TAR.** The speakers made recommendations concerning the proper level of supervision provided by managing brokers over affiliate brokers as discussed by the TAR Board of Directors at the TAR Spring Conference. A letter from TAR President Jewell McKinney was presented to the Commission (**Exhibit 4**). It is the opinion of the TAR Board of Directors that Rule 1260-2-.01 (also known as the “50-mile rule”) be retained and/or reinstated. The Commission and the speakers had a discussion concerning the “50-mile rule”. Commissioner Cunningham stated that most feedback he has received in the field from agents has been overwhelmingly in support of the Commission abolishing the “50-mile rule”. He stated that he believes by imposing this restriction, TREC may be holding a market in small context and it may discriminate against agents by limiting where in the state they are allowed to work. Interim Executive Director Donna Hancock addressed the administrative impact the “50-mile rule” has on applicants by reciprocity with states that do not have their own “50-mile rule” (i.e. Florida). The Commission invited the

representatives of TAR to return to the rule making hearing at the May commission meeting.

The next order of business was license reinstatements and waiver requests. **Dee Mitchell, ASA II**, presented a breakdown of reinstatement requests by specific infraction. The breakdown is as follows:

- **12** expired licensees had personal illnesses or family illnesses
- **5** expired licensees were missing Errors and Omissions Insurance
- **7** expired licensees were missing the required 16 hours Continuing Education
- **32** expired licensees did not renew for a combination of infractions (renewal fee not paid, lack of Errors & Omissions insurance and/or a shortage of Continuing Education hours).

The Commission addressed the reinstatement requests because of illness. **Commissioner Greene made a motion that the Commission approve all with medical appeals as long as they have proper documentation (a doctors note for themselves or their family member) with no late fee penalty; seconded by Commissioner Northern; Motion Carried.**

The Commission addressed the reinstatement requests of those with an E&O infraction only. **Commissioner Collins made a motion to assess a \$50.00 per month penalty through April 30, 2007 and \$100.00 per month penalty after April 30, 2007. Violators must secure Errors and Omissions Insurance prior to reinstatement.** Commissioner Alexander suggested that violators attend a two day session of the Real Estate Commission board meeting. **Commissioner Collins amended his motion to include that violators, in addition to the aforementioned penalty fee, must attend a two day Tennessee Real Estate Commission meeting; seconded by Commissioner Northern; Motion Carried.**

The Commission addressed the reinstatement requests of those with a Continuing Education infraction only. **Commissioner Collins made a motion to assess a \$50.00 per month penalty through April 30, 2007 and \$100.00 per month penalty after April 30, 2007, and violators will be required to attend a two day Tennessee Real Estate Commission meeting in addition to completing their shortage of required continuing education hours; seconded by Commissioner Alexander; Commissioner Northern wished to clarify that attendance at the board meeting is punitive only. Expired licensees must complete their missing Continuing Education hours plus attend 8 hours of Continuing Education at a board meeting. The board meeting does not count toward the regular required 16 hours of Continuing Education; Motion Carried.**

The Commission addressed the reinstatement requests of those with multiple infractions (renewal fee not paid, lacking Continuing Education, lacking Errors & Omissions insurance or a combination of the three). **Commissioner Collins made a motion to assess a \$50.00 per month per delinquency penalty through April 30, 2007 and assess a \$100.00 per month per delinquency penalty after April 30, 2007. Violators will be required to complete any shortages in Continuing Education and/or secure Errors & Omissions insurance, if lacking, in order to be reinstated. Additionally, violators must attend a two day Tennessee Real Estate Commission**

meeting within a time frame to be determined by the commission; seconded by Commissioner Alexander; Motion Carried.

There was a discussion held regarding disciplinary action that could be taken against violators that do not attend the two day Tennessee Real Estate Commission meeting within the to-be-determined time frame established by the commission. All licensees requesting reinstatement have the option of retesting and reapplying in lieu of the above penalties set forth by the Commission.

Commissioner Alexander made a motion that we give licensees requesting reinstatement (other than illness) six months to complete the required 8 hours, at a board meeting, for Continuing Education; seconded by Commissioner Northern; Motion Carried.

Commissioner Alexander made a motion that the Commission create a policy statement along the guidelines of the previous four motions regarding the reinstatement of expired licensees for future violators so that staff can administratively respond; seconded by Commissioner Collins; Motion Carried.

The Tennessee Real Estate Commission stands adjourned for the day.

**TENNESSEE REAL ESTATE COMMISSION
MINUTES
APRIL 5, 2007**

The Tennessee Real Estate Commission reconvened on April 5, 2007, in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William (Bear) Stephenson, Commissioner Gary Cunningham, Commissioner Adren Greene, Commissioner Grover Collins, Commissioner Isaac Northern, Commissioner Tate, Commissioner Wendell Alexander, and Commissioner David Flitcroft.

EDUCATION REPORT: Dr. Kathy Riggs, Education Director

Dr. Riggs presented courses for Commission evaluation (**Exhibit 5**). There was one course up for discussion: "Integrity Earns More (CR)". Commissioner Collins had questions concerning the Home Inspection course (Pg 1 of Exhibit 5) and whether this is a required course for pre-licensing as a Home Inspector. Dr Riggs advised that she would have to investigate. **Commissioner Collins made a motion to approve all courses except the Home Inspection course until the Commission has additional information on the course; seconded by Commissioner Greene; Motion Carried.**

Dr. Riggs presented a letter from Jackie Riggins, CEO-Owner of Property Staging Consultants (**Exhibit 6**). As requested by the Commission at the March 2007 meeting, a syllabus for the class "Property Image Consulting" was presented for review. **Commissioner Greene made a motion to deny as a 16 hour class; seconded by Commissioner Collins. In discussion, Commissioner Cunningham made a**

suggestion that Dr. Riggs suggest to Ms. Riggins that the course be offered as a 2-4 hour course instead of a 16 hour course. Motion Carried.

Dr. Riggs presented the Affiliate Broker Performance Report for First Time Takers 9-15-06 through 3-15-07 (Exhibit 7). Dr. Riggs explained the format and statistical make up of the report. She explained that the statistics are based on first time test takers regardless of when the test taker took the classes required for testing. Each test provider would have an average pass/fail ratio. Chairman Haynes stated that he wants to put the information compiled on TREC's website so potential students can make educated decisions about where to complete his/her schooling. Commissioner Alexander requested the schools' be identified by name not number in the report. Chairman Haynes stated this data will help the Commission decide on course approval for schools based on their pass/fail ratio. Commissioner Northern stated that he preferred to have only numbers as identifiers in the report to eliminate any bias. He suggested a benchmark could be set based on the data and a list of schools beneath that benchmark can be compiled by school name. Commissioner Collins stated that if a school has less than a 65% pass rate, the school should be suspended from offering courses or put on probation. Commissioner Northern stated that some action is warranted, but that the Commission should study the facts before a decision is reached. Commissioner Collins stated that schools with less than a 65% pass rate should be placed on a non-conformity list for not meeting the Commission's expectations. Commissioner Cunningham asked if the schools know their pass/fail rates. Dr. Riggs stated that the schools do know their rates of pass/fail. Chairman Haynes asked Dr. Riggs if there has ever been a standard set by TREC for the schools. Dr. Riggs stated that TREC has not looked at these statistics prior to now. Commissioner Cunningham explained that the clientele of a school could affect test scores. Additionally he stated that schools may have unusual circumstances leading to a low pass rate. Chairman Haynes requested the data be broken down further. He is interested in how the schooling was completed for each test taker (i.e. online vs. classroom). He stated that this would help the Commission make a more competent decision on approving internet courses. Commissioner Cunningham suggested Dr. Riggs restudy the report and report back to the Commission at a future date. Dr. Riggs clarified how the Commission would like the report broken down by class type. The Commission wishes for the report to differentiate between 1) classroom 2) internet 3) disc based 4) and paper and pencil. Chairman Haynes stated that TREC should contact the schools for information on how each test taker took his/her classes. Commissioner Northern wants information presented quarterly so we can notify schools and they could attempt to rectify their issues before the next quarterly report. Dr. Riggs explained to the Commission that TREC does not know a candidate exists until he/she passes the test and sends an application to TREC for processing. Commissioner Northern asked Dr. Riggs if we should change the pre-testing application to include information on what kind of classes were completed for each candidate. Chairman Haynes also wants the instructor to be listed on the application. Dr. Riggs says that it would be possible to track this data for future students. The testing facility, PSI, would need to be notified so they can put into place a system for tracking the statistics. Next month, Dr. Riggs can only supply pass/fail information. Dr. Riggs stated that she would get the names of the schools that correspond with the school code on the report (**Exhibit 7**). She will work with the schools and PSI to develop a strategy for tracking statistical data. **The Commission felt that no motion was required.**

There was a brief discussion regarding a letter sent to TREC by **Richard J. Clemmer, President of D&D School of Real Estate (Exhibit 8)**. The letter was in reply to an email sent by Dr. Riggs regarding a violation of TREC Rule 1260-5-.06(2) which prohibits licensed real estate professionals from addressing class members in an attempt to recruit them for their firm(s). The reply letter from Mr. Clemmer stated that the problem was immediately addressed and resolved.

The next order of business was a discussion of the TREC newsletter. Chairman Haynes wants Commissioner Robbie Helton's departure from the Commission and Commissioner David Flitcroft's arrival included on the front page of the next newsletter. It was also suggested that an article on the Septic Tank bill, sponsored by Rep. Steve Sutherland be included in the next newsletter. Commissioner Greene offered to write the Septic Tank bill article.

Kimberly Wells, applicant 308807, has requested that the Commission consider her waiver of the 50 mile radius rule. Ms. Wells resides in Memphis, TN but is requesting to be an affiliate of Freeman Webb Companies, placed under the supervision of Mr. William H Freeman, Co-Founder, whose company is located in Nashville, TN. It was determined that Freeman Webb is primarily a Property Management Company and that Ms. Wells was more than likely going to use her license for that purpose. **Commissioner Collins made a motion to approve; seconded by Commissioner Greene; Motion Carried.**

EXECUTIVE DIRECTOR'S REPORTS: - Donna Hancock, Interim Executive Director: Ms. Hancock presented the following information to the Commission for review:

- **Complaint Statistics Report (Exhibit 9)** – Commissioner Northern would like Formal Hearings itemized on the Closed Complaints section of the report. Commissioner Northern asked that the report be reviewed for accuracy regarding civil penalties. Interim Executive Director, Donna Hancock will investigate the Commission's concerns and report back on the results.
- **Auditor Summaries of Productivity (Exhibit 10)**
- **Longevity Award Program (Exhibit 11)** - A price breakdown was presented for the ordering of certificates, holders, and seals for producing the longevity awards. It was suggested that we use our current supply of the Tennessee Real Estate Commission seals instead of ordering new seals of excellence. **Commissioner Collins made a motion to go ahead and place the order for the holders; seconded by Commissioner Alexander; Motion Carried.** Commissioner Alexander requested a list of the 50 year plus licensees for West Tennessee be sent to him and Commissioners Northern Tate. Chairman Haynes asked that a list for East and Middle Tennessee be distributed to the appropriate Commissioners. Commissioner Northern has the backing of the Memphis Area Association of Realtors in organizing and financing, if necessary, the award breakfast for West Tennessee. Commissioner Cunningham will investigate backing from Middle Tennessee Associations for the Middle Tennessee breakfast. Chairman Haynes will approach First Tennessee Bank to propose they solely sponsor the breakfast for Middle Tennessee. Commissioner Cunningham will supply the template for the certificate and TREC can complete the printing project on the color printer. The Commission decided on the color

dark blue certificate holder. Commissioner Stephenson will consult with the Knoxville board on sponsorship and provide Ms. Hancock with a map of the three great divisions of Tennessee.

- **TREC Manuals (Exhibit 12)** – Ms. Hancock presented a comparison report for the distribution of TREC manuals. TREC can order 6,000 updated manuals, for \$10.00 per manual and Lexis Nexis will ship them for \$2.00 off of the normal shipping rate of \$6.90 per book; making the shipping cost \$4.90 per book. Lexis Nexis will warehouse and mail the updated manuals to new licensees based on a list provided by TREC. That total cost per year is \$60,000 for the manual, \$29,400 for shipping for a total annually of \$89,400. TREC also has the option of purchasing the manuals and shipping them through Datamarketing, the state mailing service. Datamarketing proposed that if we send them the 6,000 books purchased, they will ship the manuals first class for \$2.67 per book for a total of \$76,020 annually. Commissioner Cunningham has also consulted with USPS concerning mailing the manual as bound printed material. **Commissioner Cunningham made a recommendation that the Commission hold off on making a decision until Lexis Nexis supplies him with the information he requested following the March meeting; seconded by Commissioner Northern; Motion Carried.**
- **Audit of Education and Recovery Fund** - As presented yesterday, Ms. Hancock explained that the Audit of the Education and Recovery Fund she provided yesterday was for the full fiscal year 2005-2006 because the State of Tennessee is still in the 2006-2007 fiscal year. Commissioner Alexander requested a current audit with information available to date for 2006-2007. Ms. Hancock stated that she has requested a current fiscal audit from Eugene Neubert, Assistant Commissioner of the Administrative Services and Fiscal Services Office. He informed Ms. Hancock that he can possibly have it early next week. Ms. Hancock stated that she will email or mail the audit to the Commission members as soon as it is received.

Ryan Bane, Staff Attorney, addressed an addition to the March minutes that were approved by the Commission yesterday, April 4, 2007. Mr. Bane stated that the tape of the March meeting malfunctioned and we have no audio or video of a discussion regarding the change to the minutes that Commissioner Alexander made yesterday concerning the Commission interviewing the top 10 applicants for the Executive Director's position. Chairman Haynes asked Ms. Hancock to go back on the record and give the explanation leading to this discussion. Ms. Hancock explained that she has not passed the broker's exam. She stated that at this point she would be required to retake the state portion of the exam that she already passed, and she stated that she is declining to expend more annual leave or personal finance in attempting to pass the examination. She further stated that there was a miscommunication the previous month about the validity of her having the exam proctored by Dr. Kathy Riggs in the offices of the Tennessee Real Estate Commission. Ms. Hancock was advised by the testing company, PSI, that she could in fact take the exam at the TREC office if Dr. Riggs acted as proctor. Ms. Hancock failed the exam, retested again, and she passed the exam on the second in house attempt. Assistant Commissioner Meredith Sullivan invalidated the results because the terms of the department's contract with PSI do not allow pen and paper exams unless special arrangements are made. Ms. Hancock stated that Commissioner

Alexander made a motion during this discussion at the March meeting to have the advertisement for a new Executive Director placed back in the paper, but Ms. Hancock stated that no one on staff remembered Commissioner Alexander making a second part to his motion (that was not included in the original minutes) to create a subcommittee to interview the top ten candidates for the position. **Commissioner Alexander made a motion that the advertisement for Executive Director be placed in the proper publications and that all applications that come in are to be reviewed by Chairman Haynes and Commissioner Cunningham and those two Commissioners bring to the full Commission the top ten applicants for review. Commissioner Northern suggested an amendment to the motion by suggesting that the advertisement be run statewide. Commissioner Alexander amended his motion to include Commissioner Northern's suggestion to run the advertisement statewide in the media markets of Nashville, Knoxville, Chattanooga, Johnson City, Jackson, and Memphis; seconded by Commissioner Northern; Motion Carried. Commissioner Collins made a motion to recertify the March minutes with the changes made today; seconded by Commissioner Alexander; Motion Carried.**

Holly S. Sims, licensee 272708, was not on the agenda but the Chairman allowed Ms. Sims to appear with Russ Farrar to request reinstatement of her license without penalty because of a miscommunication with staff at TREC concerning Continuing Education. Ms. Sims failed to take the TREC core course prior to the expiration of her license, but stated she received no notification from TREC of any shortfall in her Continuing Education hours. When she became aware of the delinquency, Ms. Sims took the TREC core course 2007-2008. Ms. Sims, however, should have taken the TREC core course 2005-2006 as that was the course that was not completed prior to expiration. **Commissioner Greene made a motion to grant licensee's request and accept the TREC core 2007-2008 with no further education required; seconded by Commissioner Alexander; Motion Carried.**

Russ Farrar commented on a conversation he had with State Representative Cobb. State Representative Cobb inquired as to why TREC did not include a TBI background check as part of the application process. Mr. Farrar passed this information along to the Commission. **Chairman Haynes suggested that the subject of background checks be added to the May 2007 agenda.** Commissioner Northern stated that TBI offers background checks for \$29.00 per individual.

LEGAL REPORT (Exhibit 13)

- **2007052511** – Commissioner Alexander made a motion that an informal conference with a Commission member will be held; no second was given. Motion Failed for lack of second. It was decided Commissioner Tate would hold an informal conference call with the respondent.
- **2007051651** – Commissioner Collins made a motion to dismiss complaint; seconded by Commissioner Northern; Motion Carried.
- **2007052141** – Commissioner Cunningham made a motion to hold a formal hearing for revocation; seconded by Commissioner Collins; Motion Carried.

- **2007051271** – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Northern; Motion Carried.
- **2007050701** - Commissioner Collins made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.
- **2007051883** and **2007051882** and **2007051881** - Commissioner Northern made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.
- **2007051691** – Commissioner Northern made a motion to dismiss; seconded by Commissioner Cunningham; Motion Carried.
- **2007051511** – Commissioner Greene made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.
- **2007052981** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- **2007054951** – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.
- **2007054152** and **2007054151** - Commissioner Northern made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.
- **200705295** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Tate; Motion Carried.
- **2007048131** – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.
- **2006039081** – Commissioner Collins made a motion to issue a consent order with a \$500.00 fine; seconded by Commissioner Greene; Motion Carried.
- **2006037591** - Commissioner Stephenson made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.
- **2006037491** – Commissioner Stephenson made a motion to dismiss; seconded by Commissioner Greene; Motion Carried.
- **2006037131** – Commissioner Greene made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.
- **2006036991** - Commissioner Greene made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.
- **2006036741** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.
- **2006038821** – Commissioner Alexander made a motion to defer until May Commission meeting; seconded by Commissioner Stephenson; Motion Carried.
- **2006038862** and **2006038861** – Commissioner Alexander made a motion to fine the Principal Broker and the Affiliate Broker \$2200.00 per individual; seconded by Commissioner Stephenson; Motion Carried.
- **2006045041** – Commissioner Northern made a motion to dismiss; seconded by Commissioner Tate; Motion Carried.
- **2007048951** – Commissioner Stephenson made a motion to dismiss; seconded by Commissioner Northern; Motion Carried.
- **2006015122** and **2006015121**– Commissioner Cunningham made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- **2006042111** – Commissioner Northern made a motion to dismiss; seconded by Commissioner Cunningham; Motion Carried.
- **2006045682** and **2006045681** – Commissioner Northern made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.
- **2006045061** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.

- **2006036381**– Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- **2006045111** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- **2006038801** – Complaint inadvertently omitted from April legal report due to copying error; complaint will be presented at May Commission meeting.
- **2006035891**- – Complaint inadvertently omitted from April legal report due to copying error; complaint will be presented at May Commission meeting.
- **2007048201** – Complaint inadvertently omitted from April legal report due to copying error; complaint will be presented at May Commission meeting.
- **2006017751** - – Complaint inadvertently omitted from April legal report due to copying error; complaint will be presented at May Commission meeting.
- **2007048561** - Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- **2006035132** and **2006035131** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- **2007048871** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- **2006042521** – Commissioner Collins made a motion to issue a letter of warning; seconded by Commissioner Tate; Motion Carried.
- **2006045382** and **2006045381** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried
- **2006042701** – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- **2006042711**- Commissioner Northern made a motion to dismiss; seconded by Commissioner Collins; Motion Carried
- **200703762** and **200703761** – Commissioner Cunningham made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried

COMMISSIONER'S REPORTS:

Commissioner Haynes asked Ms. Hancock if she was able to obtain a copy of the advertisement for an Executive Director for TREC. Ms. Hancock said that the person in personnel who had the advertisement was unavailable, but that she will fax a copy to each of the Commission members when it was available. Ms. Hancock also consulted with Assistant Commissioner Meredith Sullivan concerning the markets in which the advertisement had been run. Ms. Sullivan stated that the advertisement had only been run in The Tennessean, but if the Commission would provide her with a list of markets in which the Commission wants to run the advertisement, she will send it to those markets as well. Chairman Haynes suggested that since Commissioner Cunningham makes his living in publishing that Ms. Hancock only send the advertisement to him. **Commissioner Northern made the motion that Commissioner Cunningham have the authority to review the advertisement and make any deletions or additions as he deems necessary; seconded by Commissioner Alexander; Motion Carried.**

Commissioner Northern brought up the issue of creating a policy statement on reinstatements. Chairman Haynes suggested the policy statement be addressed in the May 2007 Commission meeting.

Chairman Haynes called for the Commission Reports.

Chairman Stephenson posed a question concerning the Longevity Award.

He asked the Commission if we were going to have a breakfast or a lunch for the award recipients. The meal is to be a breakfast at 9 a.m.; date to be determined.

Chairman Haynes asked if the Commission needs to contribute to a fund to buy a coffee pot for Commission meetings. Ms. Hancock addressed their concern and stated that the Assistant Commissioner's office will loan us a coffee pot. She suggested we use the allotted funds (\$54.00/month) to buy coffee at Sam's Club or elsewhere. Commissioner Stephenson offered to bring in a coffee pot at the next meeting.

Ms. Hancock updated the Commission on the complaint report after asking the Complaint Coordinator to verify the information previously presented. Out of the 31 disciplinary actions taken in the newest newsletter, 8 of them were by paid Consent Letter. Last year, there were only 23 Consent Orders. Complaint Coordinator will review information and represent at the May 2007 Commission meeting.

Commissioner Stephenson asked for Commissioner Flitcroft's impression of the events of April's meeting. Mr. Flitcroft shared his thoughts on his respect for the Commission and about the complaint process and the education of licensees to avoid such complaints in the future.

Chairman Haynes called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

Chairman Haynes adjourned the Commission Meeting April 5, 2007 at 12:30 a.m.